

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

SPECIAL EDUCATION SERVICES

This rule, formerly entitled Education: Special Education Services, is being amended in compliance with the federal court order relating to RI Training School residents, the accreditation standards of the American Correctional Association (ACA) for Juvenile Training Schools and Juvenile Detention Facilities, the accreditation standards of the Correctional Education Association and the opening of new facilities. The rule is amended to provide comprehensive direction to educational staff on the provision of Special Education Services to adjudicated and detained youth, including the development of Individual Education Plans (IEPs). The previous version of this policy, refiled 1/5/07, is superseded by this amended version.

In the amendment of this rule, consideration was given to the following: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This amended rule is accessible on the R.I. Secretary of State's website (<http://www.sec.state.ri.us/ProposedRules/>) and the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401-528-3685). Interested persons should submit data, views or written comments by July 26, 2010 to Susan Bowler, Administrator for Families and Children, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 (Susan.Bowler@dcyf.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Education: ~~Special Education Services~~

Rhode Island Department of Children, Youth and Families
Division of Juvenile Correctional Services: Training School

Policy: 1200.1725

Effective Date: June 14, 2004

Revised Date:

Version: 2

~~The Education Program recognizes that every youth with a disability, as defined by The Individuals with Disabilities Education Act (IDEA), is entitled to free appropriate public education (FAPE). This entitlement exists for all eligible children and youth, including those involved in the juvenile justice system. The Education Program recognizes that IDEA requires that, "to the maximum extent appropriate," youth with disabilities, including those in public and private institutions or other care facilities, are educated with youth who are not disabled. Placement in special classes, separate schooling, or other removal from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved. This provision is often referred to as the requirement for education in the "least restrictive environment."~~

~~The Education Program staff identifies and evaluates all students with disabilities and implements a system to determine students who are currently receiving special education and related services. The Education Program provides special programs in accordance with state and federal requirements, including the implementation of procedural safeguards.~~

In accordance with the Individuals with Disabilities Education Act (IDEA), the Education Program provides a free appropriate public education (FAPE) to all eligible residents in the least restrictive environment. Special education services are implemented in the larger context of general academic and vocational programs. Instructional strategies address learning and/or behavioral problems and transition services for residents upon release to the community.

The Education Program evaluates residents with disabilities and identifies residents who are currently receiving special education and related services. Eligible residents receive special programs and related services in accordance with state and federal requirements, including the implementation of procedural safeguards and necessary accommodations to meet each resident's unique needs and prepare the resident for further education, employment, and/or independent living.

The Education Program recognizes that the Individualized Education Plan~~rogram~~ (IEP) is the cornerstone of the IDEA. The IEP is a contractual agreement to guide, orchestrate and document specially designed instruction for each resident~~student~~ with a disability based on his or her unique academic, social and behavioral needs.

The Education Program complies with all requirements of the IDEA regarding the development and implementation of the Individualized Education Plan~~rogram~~.

Related Procedures

Education: Special Education Services

Related Policy

Compliance with Section 504 of the Rehabilitation Act
Education Program: Structure and Operations

Related Policy

Education: The Individualized Education Program (IEP)

Education: Special Education Services

Procedure from Policy 1200.1725: **Education: Special Education Services**

~~A. Under the 1997 IDEA amendments, a Local Education Authority (LEA) is required to have an individualized education program (IEP) in effect at the beginning of each school year for each youth with a disability in its jurisdiction. Federal regulations call for no more than 30 days to pass between the determination that a student needs special education and related services and the conduct of the meeting to develop an IEP for the student. A team that includes the following people develops the IEP:~~

- ~~1. The student's parents or advocate/legal guardian.~~
- ~~2. At least one regular education teacher of the student (if the youth is or may be participating in a regular education environment).~~
- ~~3. At least one special education teacher of the student or, if appropriate, at least one special education provider of the student.~~
- ~~4. A qualified representative of the LEA.~~
- ~~5. An individual who can interpret the institutional implications of evaluation results.~~
- ~~6. Others (at the discretion of the parents or the Education Program) who have knowledge or special expertise regarding the youth, including related service personnel as appropriate. This category also could, at the discretion of the parents or the agency, include persons such as probation officers, institutional staff, or other service providers with knowledge or special expertise regarding the youth.~~
- ~~7. The student with a disability (if appropriate).~~

~~A. Special education services must be implemented in the larger context of general academic and vocational programs because of the tentativeness of the length of a student's stay. Instructional strategies must address learning or behavioral problems and involve parents, guardians, or surrogates.~~

~~B. The implementation of appropriate instructional strategies must also address transition services for youth released to the community. In addition, accommodations for youth with disabilities will be implemented in the school.~~

A. In conformance with the federal Individuals with Disabilities Act -2004 amendments of (IDEA), the Educational Program:

- ~~1. _____, require the Educational Program to have an individualized education program (IEP) in effect at the beginning of each school year for each resident with a disability.~~
1. Identifies residents eligible for Special Education Services and creates or updates Individual Education Plans (IEPs) as required by law.
2. ProvidesSpecial education refers to speciallydesigned instruction that meets the unique needs of the resident with a disability and enables the resident to meet the goals defined on his/her Individual Education Plan (IEP).- Specially designed instruction means instruction that has been adapted in its content (curriculum), methodology (instructional strategies), or delivery (how will the content and instruction be delivered) to meet the needs of the resident with a disability.

~~No more than 15 days may pass between the determination that a student needs special education and related services and the conduct of the meeting to develop an IEP for the student. **Also in detention?yesyes**~~

~~2. A meeting is held to review a referral for special education within 10 school days of receipt of what? Parental consent The referral is reviewed by the team of qualified professionals and the parent.~~

B. To classify a resident as learning disabled for Special Education purposes, the Education Program: the Education Program utilizes a process based on student's response to scientific, research-based intervention.

1. Does not require a severe discrepancy between intellectual ability and achievement.
2. Utilizes a resident's response to scientific, research-based intervention process, as required by the RI Department of Education. ~~The Education Program not require a severe discrepancy between intellectual ability and achievement.~~

4.C. If a resident's response to intervention suggests he/she may be eligible for Special Education Services, ~~n~~ necessary evaluation(s) are conducted:

1. Examples of evaluations are provided in DCYF Policy 1200.1714, Educational Evaluation of Residents.
- 1.2. Evaluations ~~b~~ begin within 10 school days of receipt of parental consent.
- 2.3. ~~Student~~ Evaluations are completed ~~is evaluated~~ within 60 calendar days of parental consent.
- 3.4. An ~~e~~ eligibility determination meeting is held.
- 4.5. A written report of the evaluation team is made available to the resident's home/ community school district ~~LEA~~ and parents, as well as the IEP team, if it is determined that the student/resident is eligible for special education services.

D. The IEP is developed or reviewed at a team meeting within thirty (30) days of admission and is reviewed at subsequent bi-monthly team meetings. The IEP must be reviewed by the complete IEP team at least once per year and revised as needed.

5.E. A team that includes the following people develops the IEP:

1. The resident's parent(s), legal guardian or educational advocate.
2. Not less than one regular education teacher of the resident.
3. Not less than one special education teacher of the resident.
4. A qualified representative of the resident's home/community school district, ~~the LEA~~ who is knowledgeable about the curriculum and resources and has the ability to commit those resources.
5. An individual who can interpret the institutional implications of evaluations.
6. Other individuals at the discretion of the parents or the Education Program who have knowledge or expertise regarding the resident's education and transition needs and services, including at the discretion of the parents or the Training School, persons such as probation officers, institutional staff, or other service providers.
7. The resident if appropriate.

6.F. The secondary transition IEP must be used for student/residents 14 years of age or older and when considering post-school goals and the transition services needed to reach those goals.

G. Re-evaluation must occur not more than once a year unless requested by parent and Local Education Authority (LEA) agrees otherwise and must occur every three (3) years, unless the parent and LEA determine that a re-evaluation is not necessary.

H.

Paragraphs A - G are consistent with Correctional Education Association Standards 43, 45, 49 – 51, and 60, as well as, American Correctional Association Standards 3-JTS-5D-02; 3-JTS-5D-03; 3-JTS-5D-04; 3-JTS-5D-06; 3-JTS-5D- 07; and 3-JTS-5D-08.